



Montoya, Darlene <dmontoya@nmag.gov>

Use of Force Investigations

3 messages

Suggs, Ryan M., DPS <ryan.suggs@state.nm.us>

Tue, Dec 20, 2016 at 2:44 PM

To: "dmontoya@nmag.gov" <dmontoya@nmag.gov>

Cc: "Kassetas, Pete N., DPS" <pete.kassetas@state.nm.us>, "Suggs, Ryan M., DPS" <ryan.suggs@state.nm.us>

Good Afternoon Darlene,

Per your request, attached are copies of our policies relevant to the investigation of the Use of Force incidents. Please do not hesitate to contact me if I can be of any assistance in this matter.

Thank you,

Major Ryan Suggs
New Mexico State Police
Standards Bureau Commander
Santa Fe, NM
Office: 505-827-9033
Fax: 505-827-9063
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6 attachments



OPR.01_Use_of_Force.pdf
582K



OPR.01 Attachment A Use of Force Form 122014.doc
447K



OPR.01 Attachment B Weapons and Munitions List 050715.doc
185K



OPR.29_Inv_of_Use_of_Deadly_Force_Incidents.pdf
1310K



OPR. 29 Attachment A.Uniform Supervisor Checklist.103112.doc
154K



OPR. 29 Attachment B. IB Supervisor Case Agent Checklist.103111.doc
150K

Montoya, Darlene <dmontoya@nmag.gov>

Tue, Dec 20, 2016 at 2:50 PM

To: "Suggs, Ryan M., DPS" <ryan.suggs@state.nm.us>

Cc: "Kassetas, Pete N., DPS" <pete.kassetas@state.nm.us>

Thanks Major. Give everyone my best and wish them all a Merry Christmas from me. You guys also have a wonderful and safe New Year.

[Quoted text hidden]

Darlene Montoya, Administrator
New Mexico Attorney General's Office
408 Galisteo Street
Santa Fe, New Mexico 87501
[\(505\) 490-4854](tel:(505)490-4854)

Suggs, Ryan M., DPS <ryan.suggs@state.nm.us>
To: "Montoya, Darlene" <dmontoya@nmag.gov>

Tue, Dec 20, 2016 at 2:59 PM

Of course. And you too!

Ryan

Sent from my Verizon, Samsung Galaxy smartphone
[Quoted text hidden]



DEPARTMENT OF PUBLIC SAFETY POLICIES & PROCEDURES



POLICY NUMBER

OPR: 01

EFFECTIVE
DATE:
07/01/2015

ORIGINAL
ISSUED ON:
07/01/1988

SUBJECT: USE OF FORCE

REVISION NO:

8

1.0 PURPOSE

The purpose of this policy is to provide commissioned officers of the Department of Public Safety with guidelines for the use of deadly and non-deadly force.

2.0 POLICY

It is the policy of the Department of Public Safety that officers use only the force necessary to effectively bring an incident under control, while protecting the lives of the officer and others and while accomplishing lawful objectives. It must be stressed that the use of force is not left to the unfettered discretion of the involved officers. The use of force must be objectively reasonable.

3.0 APPLICABILITY

This policy applies to all commissioned personnel of the Department of Public Safety.

4.0 REFERENCES

- A. Police Use of Force: A Line Officers Guide, *Gillespie, Hart, Boren*, RCM
- B. Reactive Control Model
- C. NMLEA Use of Force Training Curriculum
- D. Section 30-2-6, Justifiable Homicide by Public Officer or Public Employee, NMSA 1978
- E. CALEA Chapter 1- Law Enforcement Role and Authority
- F. IACP National Law Enforcement Policy Center
- G. Police Chief- June, 1996 "Excited Delirium A Two-Fold Problem", *Lt. Alan W. Benner, PhD*, San Francisco Police Department, *S. Marshall Isaacs, M.D.*, San Francisco Department of Health

5.0 DEFINITIONS

- A. **Canine or K-9** – A specially trained domestic dog, assigned to a DPS commissioned officer.
- B. **Chemical Agents** – Those chemical agents designed and manufactured for law enforcement purposes, as approved and issued by the Department of Public Safety.
- C. **Deadly Force** – That degree of force which is reasonably likely to cause death or great bodily harm.

- D. ECD Coordinator** – The person(s) assigned by the Chief to track and review all ECD applications for policy, training, and equipment issues. This person shall also be responsible for coordinating the training, issuance, and repair of Electronic Control Devices (ECDs) as needed.
- E. Excited Delirium** – Excited Delirium is a descriptive phrase used by medical researchers to describe the extreme end of a continuum of drug abuse effects, which normally manifests itself in violent behavior of an individual, who is likely to act in a bizarre and manic way.
- E. Great Bodily Harm** – An injury to a person which creates a high probability of death; or which causes serious disfigurement; or which results in permanent or protracted loss or impairment of the function of any member or organ of the body.
- F. Imminent** – Likely to occur in the immediate future..
- G. Less-Lethal Force** – Any use of force other than that which is considered deadly force. This includes use of any weaponless physical force or use of less-lethal weapons to control or restrain another or to overcome the resistance of another.
- H. Objectively Reasonable** –The necessity for force and the appropriate level of force, in each situation in light of the known circumstances, including but not limited to: the seriousness of the crime; the level of the threat or resistance presented by the subject; and the level of threat to the community.
- I. Reactive Control Model (RCM)** – A color coded chart illustrating the use of force continuum. It is a tool that guides an officer's use of force actions in response to a subject's behavioral and criminal activity cues.
- J. Reasonable Belief** –The determination and degree of use of force that a reasonably prudent person would apply under the circumstances based on reasonableness and necessity, not emotions.

6.0 PROCEDURE

A. Use of Deadly Force

1. Law enforcement officers are authorized to use deadly force, consistent with the Reactive Control Model, to:
 - a. Protect their own lives and the lives of others from what is reasonably believed to be an imminent threat of death or great bodily harm, or
 - b. To prevent the escape of a fleeing felon who the officer has probable cause to believe poses an imminent threat of death or great bodily harm to the officer or others. When practical, prior to discharge of the firearm, officers shall identify themselves as law enforcement officers and state their intent to use deadly force.
 - c. Deadly force is that degree of force which is reasonably likely to cause death or great bodily harm. The use of the following use of force options may result in death or great bodily harm:
 - i. Baton (striking head, neck, sternum, spine, groin, kidneys, etc.)
 - ii. Firearms

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- iii. Vehicle-to-vehicle contact, the P.I.T. Maneuver (above 35 MPH), or class C, roadblocks; refer to DPS policy *OPR: 08 Vehicular Pursuits* for further information.
 - iv. Weapons of opportunity or any use of force option as outlined in this policy which can result in death or great bodily harm.
2. Deadly Force Restrictions
- a. Warning shots are prohibited.
 - b. Decisions to discharge a firearm at or from a moving vehicle shall be governed by the Use of Force policy and are prohibited if they present an unreasonable risk to the officer or others.
 - c. Officers may use deadly force to destroy an animal that presents a threat to public safety or as a humanitarian measure where the animal is seriously injured and only when the officer reasonably believes that deadly force can be used without harm to the officer or others.

B. Use of Less-Lethal Force

- 1. Where deadly force is not appropriate, officers may use only that level of force that is objectively reasonable to bring an incident under control. Use of less-lethal force shall be consistent with the Reactive Control Model (RCM).
- 2. Officers are authorized to use department-approved, less-lethal force techniques, issued equipment, and canines to:
 - a. Protect self or others from physical harm;
 - b. Restrain or subdue a resistant individual; and
 - c. Bring an unlawful situation safely and effectively under control.
- 3. Refer to *Attachment B. Authorized Weapons and Munitions List* for a description of all department issued less-lethal weapons.
 - a. Procedure for Review, Inspection, and Approval of less-lethal weapons

The Training and Recruiting Bureau is responsible for the review, inspection, and approval of department owned less-lethal weapons prior to them being issued to field employees.
 - b. Procedure for Removal of Unsafe less lethal weapon
 - i. Prior to conducting any qualification or training with less-lethal weapons, the instructor shall inspect all weapons for serviceability. Commissioned personnel will also inspect their issued weapons for any obvious problems and serviceability.
 - ii. Should a weapon be found to be unsafe, the weapon shall immediately be removed from service.
 - iii. The Training and Recruiting Bureau shall be contacted as soon as practical to arrange for a replacement weapon.

- iv. The Training and Recruiting Bureau shall replace/repair the unsafe weapon and update the weapons database, as appropriate.
- c. Procedure for Record Keeping
 - i. The Training and Recruiting Bureau shall maintain a record of all less lethal weapons approved by the department for official use.
 - ii. The Training and Recruiting Bureau shall maintain a database listing all department-issued less lethal weapons, including model and serial numbers, and to whom the weapon is issued to.
 - iii. In the event a weapon is discovered to be unsafe, it shall be replaced according to the procedure described above. The newly issued replacement shall be entered into the database for inventory/tracking purposes.

C. NMSP commissioned personnel shall carry and use only those lethal and less lethal weapons and ammunitions authorized by the New Mexico State Police Chief.

D. Reactive Control Model

1. Verbal Commands

Verbal direction is not necessarily considered an application of force, but it is the first step on the Reactive Control Model. It is the goal of the officer to generate “voluntary compliance” in order to avoid using force.

2. Empty Hand Techniques (Physical Force)

Officers may use empty hand techniques on non-cooperative suspects who resist custody or lawful orders. Empty hand techniques include, but are not limited to: escort positions, distraction techniques, compliance holds, leverage takedowns, impact takedowns, and ground control techniques.

3. Intermediate Weapons (Less-lethal weapons)

An intermediate weapon has the potential for causing tissue damage but a low potential of resulting in great bodily harm when used properly. Intermediate weapons include, but are not limited to: chemical agents, electronic control devices (ECD), department approved expandable baton, straight baton, riot baton, canine, weapons of opportunity, or vehicles.

- a. When a primary intermediate weapon is not available, a weaponless technique that involves blunt trauma may be used. These techniques will be classified as intermediate force. The most common weaponless techniques in this category include elbow strikes, hand strikes, knee strikes, and foot kicks.
- b. Chemical Agents
 - i. Pepper spray may be used as a weapon to subdue an unarmed attacker or to overcome resistance likely to result in injury to the officer or others. Pepper spray is not designed to replace the baton or the firearm.
 - ii. Officers must remember that pepper spray is sometimes ineffective when used against drugged, extremely drunk, or enraged persons.

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- iii. The officer who uses pepper spray against a suspect is responsible for ensuring that the suspect receives first aid, in accordance with departmental training.

- c. Electronic Control Devices (ECD-Taser)

- i. An ECD may be used against persons who are actively resisting or exhibiting active aggression or to prevent individuals from harming themselves or others.
- ii. When practical, the use of an ECD will be preceded by a verbal warning that force will be used if compliance is not obtained.
- iii. Elevated ECD Application Risk Factors – The following factors, where apparent to involved officers, require elevated justification of ECD application. Under the following conditions, the risks of foreseeable direct or secondary injuries to the person are foreseeably elevated. Therefore, officers' justification(s) for ECD application are also elevated. These evaluated risk factors can only be given consideration when the factors are reasonably perceived by the officer(s). In less-lethal force situations, when possible, officers should avoid using the ECD on:
 - a. Persons operating a moving vehicle or machinery.
 - b. In any environment where the subject's fall could reasonably result in death, such as in an elevated structure or in water.
 - c. Obviously pregnant female.
 - d. Persons with apparent debilitating illnesses or the elderly.
 - e. Children or persons under eighty (80) pounds.
 - f. Persons in wheelchairs.
 - g. Persons with pacemakers or other bio-medical devices sensitive to electrical current.
 - h. On subjects who are passively resisting.
 - i. On a handcuffed or secured prisoner, absent overtly assaultive, overtly resistive, or fleeing behavior (i.e. stiffening up like a board, kicking, head butting, etc.) that cannot be reasonably dealt with less intrusively.
- iv. ECDs shall NOT be used in the following circumstances:
 - a. In a punitive manner.
 - b. On cooperative subjects.
 - c. In any environment where an officer knows that a potentially flammable, volatile, or explosive material is present (including, but not limited to: OC spray with volatile propellant, methamphetamine lab, gasoline, natural gas, or propane).
 - d. From, or at, moving vehicles, unless trained to do so as part of a specialty team tactic.

- v. Carrying and Storage

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- a. The device will be carried in an approved holster on the side of the body opposite to the service handgun.
 - b. The device shall be carried fully armed with the safety on in preparation for immediate use, when authorized.
 - c. Officers authorized to use the device shall be issued a minimum of one (1) spare cartridge as a backup in case of cartridge failure, the need for redeployment, or in case the first cartridge's wires break during engagement.
 - d. The spare cartridge shall be stored and carried in a manner consistent with training.
- vi. Maintenance
- a. Each officer will perform a spark test at least once each week to ensure the ECD is charged and properly functioning. These spark tests will be performed in a safe manner and away from other individuals. Officers shall document the spark test on a daily recap form or some other form of documentation.
 - b. If an officer's Digital Power Magazine (DPM) on the X26 reaches 20% or lower, it shall be replaced or recharged as appropriate. The used DPM will be turned over to the ECD coordinator to be used for training purposes.
 - c. Only agency approved battery sources shall be used in the ECD.
 - d. The ECD shall not be left unattended, unless properly stored.
- vii. Deployment
- a. Prior to deployment, the deploying officer shall announce "Taser, Taser, Taser" to help avoid sympathetic fire shootings.
 - b. In incidents where an officer observes obvious signs or symptoms of *excited delirium* in a subject, he/she, if practical, should arrange for the appropriate backup and medical personnel to be on scene prior to any deployment of the ECD.

In these instances, a single ECD application should be made before the subject has been exhausted, to create a window of disablement during which officers can establish physical control over the subject.
 - c. The ECD shall be aimed at the lower torso (lower center of mass). The targeted area will be the balancing muscles of the pelvic triangle. This will reduce the risk of a probe striking the throat, eyes, face, and female breast.
 - d. Officers shall NOT aim or deploy the ECD to sensitive areas of the body to include the eyes and face.
 - e. Upon deployment of the ECD, the officer shall energize the subject one (1) time and evaluate the subject's response, prior to re-energizing. In any case, the ECD shall be energized the least number of times and no longer than necessary to accomplish the law enforcement objective.
 - f. The ECD may also be used in certain circumstances in "drive-stun" mode. This involves removing the air cartridge and pressing the unit

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against an appropriate area of the body consistent with training. It is important to note that when the device is used in this manner, it is:

1. Primarily a pain compliance tool to be used for only that purpose and under those restrictions.
2. Subject to the same deployment guidelines and restrictions as those of the ECD in cartridge deployments.

viii. Post-Deployment Procedures

- a. Notify a supervisor if one is not on scene of the use of the ECD.
- b. If needed, or if one is requested by the subject, request an EMS unit to address the injury sustained by the subject.
- c. Subjects who were exposed to an ECD shall be treated as follows:
 1. If the probes penetrate the skin, only certified ECD users, paramedics, or emergency room staff may remove the probes, and this should be accomplished at the earliest opportunity.
 2. If the probes penetrate the skin on the face, head, neck, groin area, or female breasts, only medical staff at a medical facility may remove the probes.
 3. If the subject displays signs of *excited delirium* prior to, or after, being energized with an ECD, the subject must immediately receive medical treatment.
 4. Officers shall provide first aid following removal of the probes by applying an antiseptic and a bandage to the probe sites, as appropriate.
- d. Upon removal of the probes from the subject by an officer, the officer shall inspect the probe to ensure the barb is attached to the probe. If the barb separated from the probe, the subject must be transported to a medical facility to have the barb removed from the subject's body.
- e. Photographs of the affected area should be taken before and after the probes are removed, if practical.
- f. The officer shall collect the cartridge, probes, and at least one (1) Anti-Felon Identification (AFID) tag as evidence.

d. Baton

- i. The baton may be used as a defensive weapon against an aggressive, unarmed attacker when physical force has failed or it has been determined that the use of it is inadequate or inadvisable.
- ii. An officer is not obliged to first use physical restraint on an aggressive, unarmed attacker who is obviously larger or stronger than the officer.
- iii. An officer shall carry the baton at all times when engaged in a police activity that may require custodial action.
- iv. The use of the baton shall be in accordance with training and strikes above the shoulders should be avoided unless such use of force is justified.

e. Firearms

Used only when deadly force is justified or as listed under the restrictions to deadly force (6.0 A.2). Firearms may also be drawn as a “Show of Force” in accordance with the Reactive Control Model.

f. Weapons of Opportunity

If a confrontation suddenly escalates and an officer has no time to draw and/or use a department approved weapon to defend the officer’s self or others, the officer may use any object at hand for defense or control, provided that the use of force is reasonable, given the existing circumstances.

g. P.I.T. Maneuver (Below 35 MPH)

This type of forcible stop shall be considered an intermediate weapon (less-than-lethal) at speeds below 35 MPH. The decision to utilize this tactic shall be based upon the reasonable judgment of the officer and/ or supervisor and provided that its use is objectively reasonable in order to bring the subject under control. Refer to DPS policy *OPR: 05 Hollow Spike Belt, Stop Sticks, the P.I.T. Maneuver, and Other Forcible Stops* for further information.

h. Less-Lethal Munitions

- i. Includes munitions such as bean bag rounds, rubber pellet rounds, rubber slug rounds, wooden baton rounds, foam projectiles, stinger balls, pepper balls, and electronic control weapons (such as a Taser), which are designed to incapacitate without causing death or great bodily harm. Officers must remember that although designed to incapacitate without causing death or great bodily harm, the possibility of death exists, even when properly deployed.
- ii. In order to determine which technique or intermediate weapon will resolve the incident and bring the desired resolution, the officer shall use only that force which is necessary to accomplish the law enforcement mission (i.e. to establish control).
- iii. Officers will not use less-lethal munitions, unless he/she is trained to use the less-lethal weapon/munitions. Every effort will be made by the employee deploying less-lethal munitions to inform all other officers/agencies involved that less-lethal munitions are being used to avoid sympathetic fire.
- iv. Less-lethal shotguns are designed strictly for use to deploy less-lethal munitions. These shotguns are to be clearly marked and labeled and will only be issued to department supervisors and Special Operations Bureau personnel.
- v. The use of less-lethal munitions is permissible when a person is threatening themselves, an officer, or another person with physical force and other means of controlling the subject are unreasonable or could cause injury to the officer(s), the subject(s), or others.
- vi. The use of less-lethal munitions is also permissible when other means of lesser or equal force were ineffective and the threat still exists to the officer(s), subject(s), and others.

i. Canine

If a canine handler determines the need for a canine to assist in the apprehension of a suspect, the following procedures will be followed:

- i. The handler will, if possible, notify a supervisor of the deployment.
- ii. The canine handler will, if possible, verbally warn the suspect(s) that if the suspect does not comply with commands, the dog will be released.
- iii. The canine handler will not send the canine after a suspect if it is known that the suspect is being directly pursued by another officer on foot.
- iv. Upon releasing the canine, the canine handler will, as soon as possible, notify dispatch that the canine is deployed on an apprehension.
- v. All officers in the area of the apprehension except the canine handler and selected cover officers will remain motionless when the canine is deployed.
- vi. Deploying the canine on an armed suspect will be at the discretion of the canine handler. The canine handler will base his/her decision to deploy on the severity of the crime, the threat to the public and other officers, and whether the subject is actively resisting.
- vii. If a bite occurs the handler will follow the following procedures:
 1. Request EMS to the scene.
 2. Immediately inform his/her supervisor.
 3. If necessary, have the suspect transported to a medical facility.
 4. After any medical aid the handler will arrange for color photographs to be taken of the affected bite area after the wounds have been cleaned, and prior to the application of Betadine solution.
- viii. If the bite is accidental see *OPR: 20 Canine (K-9) Handlers* for further procedures.

j. Disparity of Force

If an officer perceives he/she is at an unequal tactical advantage, the officer should change tactics to return the tactical advantage back in their favor. This can be done by calling for backup if the disparity is immediately recognized or by escalating the use of force needed to complete the law enforcement mission as long as the use of force is reasonable and articulable in the given circumstances.

k. Handcuffing and other Restraints

- i. The mere application of handcuffing an individual does not constitute a use of force. It is considered a safety procedure.
- ii. If the handcuffs are used as leverage control and/or pain compliance, it can be considered use of force.

- iii. Arrestees shall be handcuffed behind their back, with the handcuffs double-locked, unless there is a physical reason which prevents such action; e.g. limited mobility, body mass, etc.
- iv. Other restraint devices such as leg irons are permitted for use in situations where the arrestee has demonstrated combativeness or potential for fleeing. Should these additional restraints be used, the officer shall clearly articulate the reason for use in an offense/incident report.
- v. Reasonable force may be used on a handcuffed or secured prisoner when the handcuffed or secured prisoner is demonstrating overtly resistive or fleeing behavior (i.e. stiffening up like a board, kicking, head butting, etc.) that cannot be reasonably dealt with less intrusively. This incident will be properly documented on the offense incident report.
- vi. When force is necessary, officers may use only that level of force that is objectively reasonable to bring the subject under control. The use of force shall be consistent with the Reactive Control Model (RCM) which begins with verbal coercion and continues through the use of less-lethal weapons.

E. Appropriate Medical Aid

Any officer who uses any level of force must ensure that first aid is made available if required. Appropriate medical aid may include increased observation to detect obvious changes in condition, flushing chemical agents from the eyes, applying first aid, evaluation by paramedics, or for more serious or life threatening incidents, immediate aid by medical professionals.

F. Reporting

1. All uses of force shall be documented on an Offense/Incident Report and Use of Force Form. One Use of Force Form shall be completed per incident. The escalation of force used shall be explained in the narrative section of the Use of Force Form. Uses of force include, but are not limited to the following:
 - a. Action by an officer that results in, or is alleged to have resulted in, death or great bodily harm of another person;
 - b. Application of force through the use of weaponless physical force or less-lethal weapons; and
 - c. Application of deadly force.
2. Supervisors shall complete the supervisory portion of the Use of Force Form and forward it to the lieutenant and district commander in his/her chain of command. The reviewing supervisor, after audio and/or video review of the incident, must make a determination of whether or not follow-up action is necessary and shall indicate his/her decision. The lieutenant shall review the form, sign it, and forward it to the district commander. The district commander shall determine and indicate whether the use of force was reasonable and necessary and whether further and additional review was necessary. The district commander will determine whether there were any policy violations and comment on the severity of the violation. The commander shall then indicate what type of action was taken.

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- a. Once the review process has been completed, the district commander will sign and forward the Use of Force Form to the Standards Bureau within five (5) days of the completion of the reports for entry into the Early Intervention Personnel System (EIPS). The Standards Bureau will forward the necessary paperwork to the Training and Recruiting Bureau who will be the repository for the Use of Force Forms.
- b. If the district commander believes that a violation of policy has occurred regarding whether the use of force was reasonable and necessary, the district commander will forward a Use of Force packet to the Standards Bureau Commander. The packet will include the Use of Force Form, all reports, and all audio and/or video recordings associated with the use of force incident. The Standards Bureau Commander will determine the appropriate disposition regarding the incident to determine policy compliance. The disposition shall include, but not be limited to an inquiry or an administrative investigation.

The Standards Bureau Commander will forward the Use of Force Form to the Training and Recruiting Bureau after it has been entered into the Early Intervention Personnel System (EIPS).

3. When deadly force is used to destroy an animal, the only reporting documentation required per this policy is an Intra-Departmental Correspondence (IDC) documenting the circumstances of the incident.
4. When deadly force is used in circumstances other than in destroying an animal, it shall be reported to a supervisor as soon as practical after the incident.
 - a. The Investigations Bureau will be responsible for coordinating the investigation as outlined in DPS policy *OPR: 29 Investigation of Use of Force Incidents Resulting in Death or Great Bodily Harm*.
 - b. All Use of Force Forms must be completed and submitted as outlined in this policy. Once the review is completed, the district commander shall forward all necessary documents to the Standards Bureau Commander.
 - i. In incidents where the use of deadly force does **not** result in death or great bodily harm, the district commander will indicate whether the use of force was reasonable and necessary as he would have in any other use of force incident.
 - ii. In incidents where the use of deadly force **does** result in death or great bodily harm, the district commander shall **not** comment on or indicate whether the use of force was reasonable and necessary.
5. In the case of a negligent discharge, either with a firearm or electronic control device (Taser), the officer shall notify a supervisor immediately. The supervisor shall go on scene to determine if the Investigations Bureau should be notified for further investigation. If further investigation is not necessary, the supervisor shall complete internal correspondence documenting the incident and ensure the Office of the Chief and Standards Bureau are notified. If a negligent discharge results in injury or death, refer to DPS policy *OPR: 29 Investigation of Use of Force Incidents Resulting in Death or Great Bodily Harm*.

G. Training

1. The State Police Training & Recruiting Bureau Commander, or his/her designee, shall ensure that all agency personnel authorized to carry weapons comply with the following guidelines:
 - a. On an annual basis, shall receive in-service training on the department's use of force policies and demonstrate proficiency with all approved lethal weapons and electronic control devices which the employee is authorized to carry.
 - b. The above-listed training shall be accomplished during any phase of firearms qualifications, as determined by the district commander.
 - c. Receive in-service training for other less-lethal weapons and weaponless control techniques every two (2) years. This includes a department authorized qualification course and written exam for the less-lethal shotgun.
 - d. All documentation from the training shall be forwarded to the Training & Recruiting Bureau Commander.
 - e. The district commander shall provide written documentation for any agency personnel who fail to receive the above-described training describing the circumstances why the employee(s) was unable to meet the requirements. This documentation shall be forwarded to the Training & Recruiting Bureau Commander or his/her designee no later than January 31st of the following year.
2. The Training & Recruiting Bureau Commander, or his/her designee, shall ensure:
 - a. All proficiency training is monitored by a certified weapons or tactics instructor.
 - b. Training and proficiency is documented.
 - c. Those employees unable to demonstrate proficiency with authorized lethal and less lethal weapons shall receive remedial training and must qualify with those weapons prior to resuming official duties.
 - d. All agency personnel authorized to carry lethal and less-lethal weapons receive copies of, and instruction on, the department use of force policy prior to being authorized to carry a weapon. The instruction and issuance of the department use of force policy shall be documented and maintained in the Training & Recruiting Bureau.
3. In addition to training required for firearms qualification, officers shall receive agency-authorized training designed to simulate actual shooting situations and conditions, as otherwise necessary, to enhance officer discretion and judgment in using deadly and less-lethal force in accordance with this policy.
4. Officers shall receive training on recognizing signs and symptoms of *excited delirium* during the ECD certification training as well as receiving any updated information concerning this condition during the annual use of force training.
5. Refer to *OPR: 20 DPS Canine Handlers* for canine handler training requirements.

H. Remedial Training

1. Lethal weapons - Those employees unable to demonstrate proficiency with issued lethal weapons will follow the guidelines under department policy *ADM: 13 Carrying of Firearms*.
2. Electronic Control Devices
 - a. In the event an employee is unable to demonstrate proficiency with an ECD, the weapons or tactics instructor administering the test must immediately inform the employee's District/Bureau Commander/Director and the Office of the Chief.
 - b. The employee failing to demonstrate proficiency shall immediately surrender the ECD to the District/Bureau Commander/Director.
 - c. The District/Bureau Commander/Director shall coordinate with the Training & Recruiting Bureau Commander or his/her designee, to schedule the employee for remedial training. Remedial training may be conducted during the next available State Police Academy recruit school block of instruction pertinent to the failure to demonstrate proficiency or individualized training may be scheduled.
3. Less-Lethal Weapons – Those employees failing to demonstrate proficiency with less-lethal weapons will follow the guidelines outlined above for the ECD.

I. Annual Review

1. The Training and Recruiting Bureau Commander is responsible for completing an annual documented analysis of all use of force documentation. The analysis shall minimally focus on patterns or trends that could indicate training need, need for equipment upgrades, and/or need for policy modifications.
 2. The Training and Recruiting Bureau Commander shall complete a report detailing the use of force analysis and forward it to the Office of the Chief no later than the last day of January, following the year being analyzed.
 3. The Training and Recruiting Bureau Commander may convene a committee to assist with the analysis based on need.
1. The department shall conduct both a criminal and administrative investigation of incidents involving the use of force resulting in death or great bodily harm.
 2. Any employee whose actions or use of force results in a death or great bodily harm shall be removed from the line of duty assignment pending an administrative review.
 3. Supervisors shall refer to policy OPR: 29 *Investigation of Use of Force Incidents Resulting in Death or Great Bodily Harm* for guidelines and information regarding departmental responsibilities in incidents where DPS personnel use force resulting in death or great bodily harm or when citizens/arrestees die or are seriously injured while in DPS custody or as a result of a DPS action.

7.0 ATTACHMENTS

USE OF FORCE

A. Use of Force Form

B. Authorized Weapons and Munitions List

8.0 APPROVAL

APPROVED BY: s/Gregory J. Fouratt DATE: July 1, 2015
DPS Cabinet Secretary



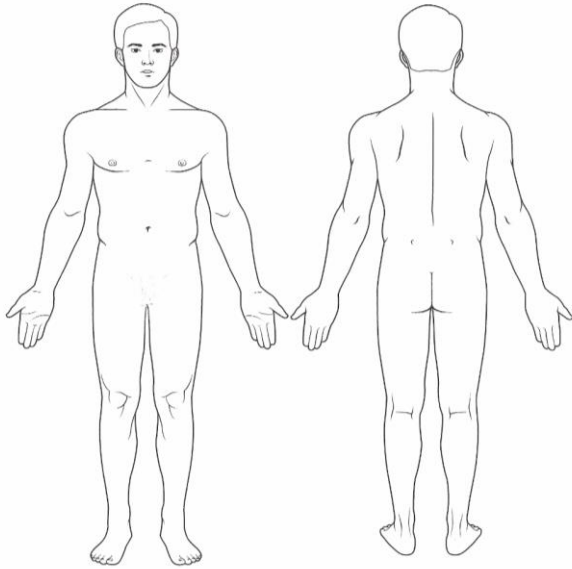
DEPARTMENT OF PUBLIC SAFETY

USE OF FORCE FORM



Incident Information		<input type="checkbox"/> Deadly Force	<input type="checkbox"/> Non-Deadly Force
Date: _____	Time: _____	Location: _____	
Case No: _____	Charges: _____		
Subject's Name: _____	Subject Arrested: <input type="checkbox"/> YES <input type="checkbox"/> NO		
Male <input type="checkbox"/> Female <input type="checkbox"/> Race: _____ Age: _____	Incident Supervisor: _____		
Primary Officer: _____	Lighting Conditions: _____		
Assisting Officer(s): _____	Weather Conditions: _____		
Reason for Contact (Violation): _____			
Prior to Use of Force: <input type="checkbox"/> Verbal Directions <input type="checkbox"/> Verbal Persuasion <input type="checkbox"/> Verbal Warnings <input type="checkbox"/> N/A – Explain			
Type of Force Used: (Explain Escalation of Force in Narrative Section)			
Empty Hand Techniques: <input type="checkbox"/> Leverage Takedown <input type="checkbox"/> Pressure Point <input type="checkbox"/> Impact Takedown			
Intermediate Weapons: (Mark all that apply)			
Weaponless Techniques (Intermediate Force): <input type="checkbox"/> Knee/Elbow Strikes <input type="checkbox"/> Hand Strikes <input type="checkbox"/> Kick			
<input type="checkbox"/> Chemical Agent: Type: _____			
<input type="checkbox"/> Electronic Control Weapon (Taser)		Impact Weapons – (Mark all that apply)	
Serial No: _____		<input type="checkbox"/> Baton	<input type="checkbox"/> Pepper Ball
Cartridge No: _____		<input type="checkbox"/> Sting Ball	<input type="checkbox"/> Bean Bag
Cartridge Deployed: <input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Rubber Buckshot	
Contact Stun Drive: <input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Foam Baton Round	
No of Cycles Used: _____		<input type="checkbox"/> Wooden Baton Round	
Duration of Cycles: _____		<input type="checkbox"/> Authorized Specialty Impact Munitions	
Distance in Feet: _____		<input type="checkbox"/> 40mm Specialty Impact Munitions	
Clothing Type: <input type="checkbox"/> Heavy <input type="checkbox"/> Light <input type="checkbox"/> None		<input type="checkbox"/> Canine (K-9) Bite	<input type="checkbox"/> Other: _____
Lethal Weapons: (Mark all that apply)			
<input type="checkbox"/> Sidearm; Serial No: _____		<input type="checkbox"/> AR-15; Serial No: _____	
<input type="checkbox"/> Shotgun; Serial No: _____		<input type="checkbox"/> Back-Up; Serial No: _____	
<input type="checkbox"/> Other Weapon Type: _____ and Serial No: _____			
Pit Maneuver: (Mark all that apply)			
<input type="checkbox"/> Below 35 M.P.H. (Less-than-lethal)		<input type="checkbox"/> Above 35 M.P.H. (Deadly Force)	
Suspect's Behavioral Cues: (Mark all that Apply)			
<input type="checkbox"/> Non-Cooperative Assailant: Resists Custody By:			
<input type="checkbox"/> Not Responsive to Directions		<input type="checkbox"/> Evasive to Questions	
<input type="checkbox"/> Verbal Resistance or Body Posture		<input type="checkbox"/> Pulling/Moving or Running Away	
<input type="checkbox"/> Unarmed Assailant: Resists Custody By:			
<input type="checkbox"/> Unarmed Threatening		<input type="checkbox"/> Closed The Distance	<input type="checkbox"/> Unarmed Attack
<input type="checkbox"/> Armed Assailant: Resists Custody By:			
<input type="checkbox"/> Armed Threatening		<input type="checkbox"/> Closed The Distance	<input type="checkbox"/> Armed Attack
Weapon Type: _____			

USE OF FORCE FORM



Upon completion of this report, print a copy and mark location(s) of impacts, strikes, probes, K-9 bites and/or drive-stun contact points or other injuries sustained in the incident, with an "X" on the diagram.

Photos taken of any injuries or marks on subject?	No
Photos taken of probe/drive stun contact points after removal of probes:	No
Probes Removed at Scene:	No
Probes Removed by: Name:	Other
EMS Requested by Officer:	No
EMS Requested by Subject:	No
Subject Transported by EMS:	No

NARRATIVE:

USE OF FORCE FORM

Investigating Officer:			
Reporting Officer:		District:	
Recordings Available?	Audio: YES <input type="checkbox"/> NO <input type="checkbox"/>	Video: YES <input type="checkbox"/> NO <input type="checkbox"/>	
If recordings not available, explain why:			
Reporting Officer's Signature:		Date:	
Supervisor Review:			
Reviewing Supervisor's Name:			
Reviewed recordings?	Audio: YES <input type="checkbox"/> NO <input type="checkbox"/>	Video: YES <input type="checkbox"/> NO <input type="checkbox"/>	
Is follow-up action necessary?	YES <input type="checkbox"/> NO <input type="checkbox"/>		
Reviewing Supervisor Signature:		Date:	
Lieutenant:			
Reviewing Lieutenant's Name:			
Lieutenant Signature:		Date:	
District Commander:			
Reviewing District Commander Name:			
Was use of force reasonable and necessary?		YES <input type="checkbox"/> NO <input type="checkbox"/>	
Comments:			
District Commander Signature:		Date:	

Forwarded to Standards Bureau on: Date:



DEPARTMENT OF PUBLIC SAFETY



Authorized Weapons and Munitions List

LETHAL WEAPONS - General Issue to Commissioned Personnel

Sidearms: Smith & Wesson M&P 9mm and M&P 9mm (compact model) with tritium sights; standard trigger, No magazine disconnect, no lock out device. Duty assignment dictates which pistol issued. M&P 9mm full size for uniform personnel, M&P 9mm (compact model) for plainclothes and under cover personnel.

Long Guns: All commissioned personnel issued AR15 rifle/carbine (.223Rem/556 NATO Chambering), 9 ½ inch to 16 inch barrel, lighting system and tactical sling.

All commissioned personnel trained with and issued Remington 870 (12 Ga.) shotgun, rifles sights, carrying sling and sidesaddle shell carrier. Personnel have the option to turn in the shotgun at their discretion.

Back-up Guns: Smith & Wesson 642 air weight revolver (.38 Special +P chambering), M&P 9mm Shield issued as optional weapon for commissioned personnel or other department authorized back up weapon.

LESS LETHAL WEAPONS - General Issue to Commissioned Personnel

Taser International X-26 conducted energy weapon

ASP 16 inch expandable batons

Defense Technologies MKIII Pepper Spray 5.5%

Remington 870 shotguns dedicated for less lethal projectiles

TACTICAL TEAM ISSUED WEAPONS

Sidearms: S&W M&P 9mm or other approved sidearm for duty carry.

Long Guns: Colt semi auto M4 Carbines (.223/556mm), Colt LE semi auto Commandos (.223/556mm), Colt A3 carbines (.223/556mm), Colt M16 Commandos (.223/556mm), Remington 700s (.308), Georgia Precision (.308), Barrett (.50), H&K MP5 & G3, Colt LE 901 (.308), JP-15. All equipped with various Sure Fire lighting systems, tactical slings, Aimpoint or Eotech "red dot" optics and redundant flip up iron sights.

Remington 870's with short barrels used for breaching.

Precision rifles with Tactical scopes issued to counter-sniper/precision riflemen.

TACTICAL TEAM / EMERGENCY RESPONSE TEAM ISSUED WEAPONS

Taser X-26's, Taser M-26's

Remington 870 shotguns dedicated for less lethal projectiles

Sage International 37mm and 40 mm projectile launchers

Smith and Wesson 37mm projectile launchers

Pepper Ball compressed air driven launcher

Pepper Mace Riot Extinguishers

Wooden Riot batons



DEPARTMENT OF PUBLIC SAFETY

Authorized Weapons and Munitions List



AMMUNITION

Handgun: General Issue Sidearm

Duty: . 9mm Federal Tactical 124+p HST or Winchester Ranger T-Series 127+p+ or Hornady Critical Duty 9mm 135 FlexLock

Practice/Qualification: Factory 9mm 115 to 124 grain Full Metal Jacket.

Handgun: Authorized Personal Sidearm Ammunition

Duty: Speer Gold Dot HP, Federal HST JHP, Remington Golden Sabre Bonded JHP, Winchester Ranger Bonded JHP or Silvertip HP, Corbon Conventional JHP, DPX, Barnes TAC-XP, Bonded Defense JHP, Brass Jacketed HP, Nosler, Double Tap, Hornady.

Duty Bullet weights for approved calibers are as follows:

Caliber	Grain								
9mm	115	124	127	135	147				
.38 Super	115	125	130						
.357 Sig	125								
.357 Magnum	125	145	158						
.40 S&W	135	155	165						
10mm	125	135	150	155	165	175	180	200	230
.41 Magnum	165	175	210						
.44 Special/Magnum	165	180	200	210	225	255			
.45	160	185	200	225	230				

Rifle Ammunition :

Duty:

.223 Rem.	Winchester Hornady CCI Speer	55 grain 55 grain 64 grain	Jacketed Soft Point TAP Urban Gold Dot
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Practice/Qualification:

.223 Rem.	Federal, Winchester, Speer	55 grain	Full Metal Jacket
.223 Rem.	Remington	45 grain	Lead Free Plated Frangible

Lethal and Less-Lethal Shotgun:

Duty and Practice/Qualification:

2 ¾ 12 Gauge Federal or Winchester -One Ounce Slug Or Tactical One Oz Slug
 2 ¾ 12 Gauge Federal or Winchester -9 pellet 00 Buckshot Or Tactical 9 pellet 00 Buckshot
 Drag stabilized bean bag rounds; various manufacturers.

Additional Ammunition Authorized for Tactical Team

Rifle:

.223 Remington/5.56mm NATO	Federal 168 grain Boat Tail Hollow Point Match
M855 62 grain SS-109 NATO	Federal 165 grain Bonded Soft Point
Hornady TAP, 40, 55, 60, 75 , 110 grain	Federal 55 grain Bonded Soft Point
Federal 168 grain Tactical Bonded Tipped	Hornady Tap .308 110,155,168 168 grain
.308 Winchester/7.62mm NATO	HSM 175 grain Boat Tail Hollow Point
Federal American Eagle 150 grain Full Metal Jacket	



DEPARTMENT OF PUBLIC SAFETY

Authorized Weapons and Munitions List



Less Lethal Ammunition for Tactical Team/Emergency Response Team	
<u>Shotgun Specialty Ammunition</u>	
Fragmentary door breaching rounds; various manufacturers. Drag stabilized bean bag rounds; various manufacturers. C/S projectiles; various manufacturers. Rubber ball riot control rounds; various manufacturers.	
<u>37mm/40mm Specialty Projectiles</u>	
Wooden baton rounds	CS/CN/OC rounds
Rubber baton rounds	Sting ball rounds
Foam baton rounds	
<u>Hand-Held Grenades</u>	
Stinger grenades-indoor and outdoor	CS/CN grenades-indoor and outdoor
<u>Pepper Ball Gun</u>	
O/C rounds	Inert training rounds
Light/sound diversionary devices (flash bangs) of various manufacturers	



DEPARTMENT OF PUBLIC SAFETY POLICIES & PROCEDURES



POLICY NUMBER	
OPR:29	
EFFECTIVE DATE: 03/11/2013	ORIGINAL ISSUED ON: 04/03/2002
REVISION NO: 4	

SUBJECT: INVESTIGATION OF USE OF FORCE INCIDENTS RESULTING IN DEATH OR GREAT BODILY HARM

1.0 PURPOSE

The purpose of this policy is to establish procedures and provide Department of Public Safety personnel with guidance during the investigation of use of force incidents involving DPS personnel that result in death or great bodily harm.

2.0 POLICY

It is the policy of the Department of Public Safety to thoroughly investigate all cases where DPS personnel use force resulting in death or great bodily harm or when citizens/arrestees die or are seriously injured while in DPS custody or as a result of a DPS action. This policy does not apply to incidents of negligent discharge (unless death or injury has occurred) or when an animal is shot by an officer (for humanitarian reasons). The Investigations Bureau is responsible for coordinating the investigation of use of force incidents resulting in death or great bodily harm.

Investigations of those employees who are also members of the Motor Transportation Police Division and who fall under the **Agreement Between The State of New Mexico and the New Mexico Motor Transportation Police Employee's Association** contract will be conducted according to the stipulations contained in that agreement.

3.0 APPLICABILITY

This policy is applicable to all commissioned employees of the Department of Public Safety.

4.0 REFERENCES

NONE

5.0 DEFINITIONS

- A. **Commissioned Personnel** – Employees whose job specifications require that they maintain a Law Enforcement Officer Certification from the New Mexico Law Enforcement Academy, and are commissioned as peace officers by the DPS.
- B. **Companion** – A DPS commissioned officer designated by the on-scene uniform supervisor who is assigned to accompany/support the principal officer should a P.O.S.T. member not be available.
- C. **DPS** – The Department of Public Safety.
- D. **Great Bodily Harm** – An injury to a person which creates a high probability of death; or which causes serious disfigurement; or which results in permanent or protracted loss or impairment of the function of any member or organ of the body.

E. Involved Officer – Any DPS commissioned officer that observed, directed, influenced, participated in, or directly assisted the principal officer when using force or whose law enforcement actions resulted in death or great bodily harm of a citizen/arrestee.

Clarification added.

F. Peer Officer Support Team (P.O.S.T.) Representative – A person who is a trained member of the P.O.S.T. will be assigned to the principal officer. The P.O.S.T. representative will assist with the emotional and physical needs of the principal officer.

G. Principal Officer – Any DPS commissioned personnel who, under the color of the law, has used force which has, or reasonably could have, resulted in death or great bodily harm or, who under the color of law, has discharged a firearm which has, or reasonably could have, resulted in death or great bodily harm.

H. Witness Officer – Any DPS commissioned personnel that witnessed a use of force incident involving another DPS commissioned officer that results in death or great bodily harm whether before, during, or immediately following the event.

6.0 PROCEDURE

A. First Responding Personnel Responsibilities

Any DPS personnel, regardless of rank and assignment, who are first to arrive on scene shall:

1. Evaluate injuries and render medical aid as deemed necessary and appropriate, while attempting to avoid the destruction or contamination of evidence.
2. Search the area for any additional suspects, secure the scene, and implement the seven (7) critical tasks, as appropriate.
3. Identify any witnesses at the scene and secure them separately in a police vehicle or with another officer to maintain credibility.
4. Start a Crime Scene Log.
5. Remain on scene until relieved by the NMSP Investigations Bureau (IB) supervisor.
6. Will complete the appropriate supplemental report and communicate with the investigating case agent for direction on providing that report to the IB.

B. NMSP Uniform Supervisor Responsibilities

1. The New Mexico State Police Investigations Bureau will be responsible for the investigation of all use of force incidents involving DPS personnel that result in death or great bodily harm. Should a Special Investigations Division or Motor Transportation Police Division commissioned officer be involved in such an incident, the affected DPS supervisor shall communicate and work with the NMSP supervisor in command of the incident in order to accomplish an acceptable resolution.
2. The New Mexico State Police on duty uniform supervisor in the district where the use of force incident occurred is responsible for the notification of the NMSP district commander or assistant district commander. The district commander will ensure that a district supervisor is sent and remains at the scene until otherwise directed by

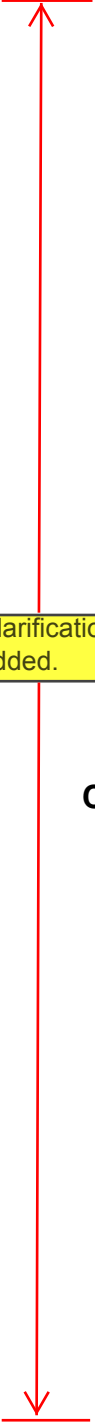
Clarification added.

the IB case agent or IB supervisor. The district commander will ensure that the following individuals are notified:

- a. On-call NMSP IB supervisor.
 - b. NMSP Executive command duty officer.
 - c. NMSP or DPS Public Information Officer (PIO) as appropriate.
 - d. Standards Bureau Commander or his/her designee.
 - e. P.O.S.T. Commander.
3. The NMSP uniform supervisor on scene will ensure that the seven (7) critical tasks were implemented as appropriate.
 4. The NMSP uniform supervisor will ensure that a Crime Scene Log has been started and that the access of persons permitted within the crime scene inner and outer perimeter are controlled.
 5. The first NMSP uniform supervisor to arrive on scene will advise the principal officer(s) who used force resulting in death or great bodily harm that they are allowed legal representation beginning at the scene of the incident and continuing through the entire criminal investigation. ***This should not be confused with the advisement of the "Miranda Warnings."***
 6. If the principal officer is not injured, he or she should be removed some distance from the immediate scene and if at all possible should be documented (photographed) as they were at the time of the incident and secured until the arrival of the Investigations Bureau case agent in charge of the investigation. A P.O.S.T. member or companion officer should accompany the principal officer(s) and assist him/her with emotional and physical needs as deemed necessary. They shall not discuss the facts of the incident with the principal officer prior to the principal officer giving their formal statement to the Investigations Bureau (IB).
 7. The ranking NMSP uniform supervisor on scene will be in command of the incident scene until the IB assumes command. Once personnel from the IB arrive on scene, the NMSP uniform supervisor will relinquish command to the IB case agent/supervisor, but will make him or herself available to assist with the larger incident, if required/requested.
 8. The on-scene NMSP uniform supervisor, prior to and after the arrival of the IB personnel, will ensure that all officers involved in the incident remain at the scene until released by the IB case agent or supervisor, unless medical necessity or emergency needs dictate otherwise. All involved personnel, to include DPS or other agency specialty team members, should be interviewed by the IB prior to being released.
 9. The on-scene NMSP uniform supervisor will ensure that physical evidence pertaining to the incident remains at the scene and remains secured and undisturbed. The evidence may include but is not limited to;
 - a. The crime scene(s) itself;

Clarification
added.

- b. In-car camera video recordings;
- c. Audio recordings;
- d. Film;
- e. Weapons.

- 
10. The on-scene NMSP uniform supervisor will take control of the weapon used by the officer during the incident along with all weapon companion equipment until the weapon(s) can be turned over to the Investigations Bureau for processing, etc. If the weapon(s) has been dropped, it will be secured where it rests and preserved and processed as part of the scene. The weapon shall **not** be cleared or made safe as the weapon is a crucial part of the investigation.
11. In the event an officer's sidearm is seized as evidence, a replacement weapon will be provided to that officer as soon as practical to ensure that an officer is not weaponless while on scene and on duty.
12. The on-scene NMSP uniform supervisor will attempt to gain the cooperation of civilian witnesses, if any, to remain at the scene until the arrival of the Investigations Bureau. If that is not possible, the supervisor will gather contact information to enable agents to obtain a statement from the witnesses at a later time.
13. The NMSP uniform supervisor will ensure that officers at the scene refrain from making evaluative or judgmental comments about the officer's actions.
14. The on-scene NMSP uniform supervisor may utilize attachment A, Uniform Supervisor Checklist, to document on-scene responsibilities.

C. Investigation Bureau Agent Responsibilities

- 1. Upon arrival, the Investigations Bureau case agent or supervisor will be briefed by the on-scene NMSP uniform supervisor and will assume command of the crime scene and incident.
- 2. The Investigations Bureau case agent or supervisor will ensure that a Crime Scene Log has been started and that the access of persons permitted within the crime scene inner and outer perimeter are controlled in cooperation with the on-scene NMSP uniform supervisor on scene.
- 3. The Investigations Bureau case agent or supervisor will secure and assume control of all the weapons used by the principal officer during the incident.
- 4. If not already done so by the NMSP uniform supervisor, the case agent will identify and locate all principal, involved, and witness officers at the scene and place them in separate locations. The case agent will also ensure that a companion officer or P.O.S.T. representative is assigned to the principal officer.
- 5. The case agent or supervisor will ensure that the officers involved are afforded an early opportunity to communicate with family members, and/or any other person that

the officer wishes to speak with for counsel, advice, or support. The P.O.S.T. member or companion officer may be utilized to make the needed arrangements.

6. Conversations between all involved commissioned officers and the DPS personnel assigned to assist them should be considered evidentiary, and shall be disclosed to the case agent or his/her supervisor.
7. The case agent will ensure that all principal, witness, and involved officers remain in the same attire and do not dispose of any items which were in his/her possession at the time of the incident until authorized to do so by the IB case agent or supervisor, unless the attire and/or items contain infectious fluids and pose a health risk to the officer.
8. **The NMSP Investigations Bureau case agent and/or supervisor will utilize proper judgment and discretion in deciding upon the type of constitutional advisement to provide the principal officer(s). This decision is dependent upon the nature and circumstances of the incident and the available information at hand.**
9. At a minimum, it will be explained to the principal officer that the Investigations Bureau is conducting a criminal investigation of the incident and that the officer's cooperation and statements are voluntary and are not compelled as they would be in an administrative investigation. The case agent or supervisor will also ensure that the principal officer understands that his/her cooperation at the scene and during the later steps in the investigative process are voluntary and not required by department policy, procedure, or law.
10. The Investigations Bureau case agent or supervisor will initiate or direct an area canvass to locate any witnesses who may have information regarding the incident, if applicable.
11. The IB case agent, in communication with the IB supervisor, may utilize attachment B, Investigations Bureau Supervisor/Case Agent Checklist, to document on-scene responsibilities.

D. Investigation Bureau Supervisor Responsibilities

1. The lead IB supervisor on scene will assume responsibility for the crime scene security and will coordinate the security with the NMSP Uniform Division supervisor. Access to the inner or outer perimeters of the crime scene will be directed by the lead IB supervisor.
 - a. Persons permitted within the scene inner-perimeter will be limited to:
 - i. IB Agents and IB supervisors assigned to the investigation.
 - ii. Office of Medical Investigator (OMI), if death has occurred or upon the request of an IB Agent/Supervisor.
 - iii. District Attorney representative.

- iv. Internal Affairs representative (Upon completion of the crime scene processing).
- v. NMSP uniform or DPS personnel as requested by the Investigations Bureau.
- vi. Officer Involved Shooting (OIS) Task Force officers as part of a joint investigation.
- b. Persons permitted within the outer-perimeter, but not within the inner-perimeter will be limited to:
 - i. NMSP uniformed or DPS personnel assigned to the investigation or security.
 - ii. NMSP or DPS Public Information Officer (PIO) as appropriate.
 - iii. DPS Attorney, if required and/or appropriate.
 - iv. NMSP Chief/DPS Deputy Secretary of Operations and DPS Cabinet Secretary, or their designee.

Clarification added.


- 2. The responsibility for contacting the Office of the Medical Investigator (OMI), as necessary, will be directed by the Investigations Bureau Supervisor.
- 3. Upon completion of the evidence preservation and gathering at the crime scene, the lead IB supervisor and or case agent may take command staff, principal, involved and witness officers, and as deemed appropriate, members of the district attorney's office, on a walkthrough of the crime scene.
- 4. The lead IB supervisor on scene will oversee the overall progress of the criminal investigation and will ensure that the investigation is conducted in accordance with established investigative procedures. The same standards as set forth in this policy will be adhered to when the IB is the lead agency in the investigation of a use of force incident involving another agency.
- 5. The IB supervisor, in communication with the IB case agent, may utilize attachment B, Investigations Bureau Supervisor / Case Agent Checklist, to document on-scene responsibilities.

E. Interviews of Commissioned DPS Personnel

- 1. Interviews of witness officers, involved officers, and civilian witnesses will be conducted without delay, prior to interviewing the principal officer, unless exigent circumstances exist.
- 2. If the IB supervisor on scene deems necessary, the principal officer may be briefly interviewed concerning specific information pertaining to the identification and care of the injured, to aid in the apprehension of suspects(s), to protect the scene(s), or to locate additional witnesses.
- 3. The principal officer will be interviewed by New Mexico State Police Investigations Bureau personnel and requested to give a formal (recorded) statement. The formal interview should usually occur forty-eight (48) hours or more after the incident.

Clarification added.

Pursuant to case law regarding interrogations, "*Miranda Warnings*" will be given to the principal officer in those instances where it would be applicable.

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4. No more than **two (2)** Investigation Bureau personnel will interview the principal officer at one time.
5. Internal Affairs (IA) investigators shall **not** be present during the interviews of DPS personnel while they are giving statements to the IB. IA investigators may, however, monitor the interviews out of sight or review the recordings of the interviews.
6. Unless directed by the NMSP Chief/DPS Deputy Secretary of Operations, IA investigators will not question any DPS personnel involved in the criminal investigation until that investigation is completed as determined by the commander of the Investigations Bureau. This is to avoid duplication of effort and potential conflicts regarding *Garrity v. New Jersey*.
7. All participating police personnel will submit a supplemental report in a timely manner and will communicate with the Investigations Bureau case agent for direction on providing a copy of that report to the IB.
8. The principal, witness, and involved officers will **NOT** submit a report regarding the incident. Their account of the incident will be documented in the IB case report through their statements.
9. After the principal, witness, and involved officers have been processed and documented by the IB, any officer whose weapon has been removed will have a temporary weapon issued to them prior to leaving the scene. Every Uniform District should have a replacement weapon available for such occurrences.
10. Motor Transportation Police Division Employees covered by the union contract may have a union representative present during questioning. The presence of a union representative is not automatic and must be requested by the MTPD employee being questioned.


Clarification added.

F. Investigations Bureau Captain/Commander Responsibilities

1. It is the responsibility of the Investigations Bureau captain/commander to keep the NMSP Deputy Chief and NMSP Chief/DPS Deputy Secretary of Operations informed of the status of the investigation. The SID Director or MTPD Chief will be informed of the status of the investigation when appropriate.
2. It is also the responsibility of the Investigations Bureau commander to provide a copy of the complete investigative report to the Standards Bureau Commander.

G. NMSP Chief/DPS Deputy Secretary of Operations Responsibilities

1. In incidents where the use of force results in death or great bodily harm, the DPS Cabinet Secretary, in concurrence with the NMSP Chief/DPS Deputy Secretary of Operations, **will place** the principal officer on administrative leave with pay, for three (3) days.

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2. During incidents in which the use of force does **not** result in death or great bodily harm, the DPS Cabinet Secretary, in concurrence with the NMSP Chief/DPS Deputy Secretary of Operations, **may place** the principal officer on administrative leave with pay, for a minimum of three (3) days.
 3. During administrative leave, the principal officer, at his/her discretion may be available to the Investigations Bureau.
 4. Witness and involved officers may also be placed on administrative leave with pay, upon approval of the DPS Cabinet Secretary in concurrence with the NMSP Chief/DPS Deputy Secretary of Operations or his/her designee.

H. Psychological Services

1. In incidents where the use of force results in death or great bodily harm, the principal officer **shall** attend at least one (1) session with a Department approved provider of psychological services.
2. Psychological services will also be made available to the principal officer in incidents where death or great bodily harm does **not** occur. Attendance in such incidents will be optional.
3. The spouse and children of the officer will also be afforded the opportunity to attend a group session with a Department approved provider of psychological services.

Clarification added.

7.0 ATTACHMENTS:

A. Uniform Supervisor Checklist

B. Investigations Bureau Supervisor / Case Agent Checklist

8.0 APPROVAL:

APPROVED BY: s/Gorden Eden Jr. **DATE:** March 11, 2013
DPS Cabinet Secretary



DEPARTMENT OF PUBLIC SAFETY
UNIFORM SUPERVISOR CHECKLIST
Investigation of Use of Force Incidents
Resulting in Death or Great Bodily Harm



PRINCIPAL OFFICER(S):		
Name:	Case #:	Date:
Other LEA Involved: Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, name:	
Officer Injured: Yes <input type="checkbox"/> No <input type="checkbox"/>	Civilian Injured: Yes <input type="checkbox"/> No <input type="checkbox"/>	

ON DUTY SUPERVISOR RESPONSIBILITIES (CHECK WHEN ACCOMPLISHED)	
<input type="checkbox"/>	Notified the District Commander or Assistant District Commander who will make the necessary notifications.
<input type="checkbox"/>	Ensured that the 7-Critical Tasks were implemented as appropriate.
<input type="checkbox"/>	Ensured that a Crime Scene Log was started and controlled the access of persons permitted within the crime scene inner and outer perimeter.
<input type="checkbox"/>	Advised principal officer of right to legal representation from scene of incident and continuing through the entire criminal investigation; Should not to be confused with advisement of "Miranda Warnings".
<input type="checkbox"/>	If not injured and if possible, documented and photographed principal officer.
<input type="checkbox"/>	Removed principal officer from immediate scene to await IB case agent /supervisor.
<input type="checkbox"/>	Assigned a companion officer or P.O.S.T. member to accompany the principal officer.
<input type="checkbox"/>	Ensured all physical evidence pertaining to incident remained on scene; secured and undisturbed.
<input type="checkbox"/>	Took control of the weapon used by the principal officer. If weapon was dropped, it was secured and preserved as evidence. The weapon was NOT cleared or made safe.
<input type="checkbox"/>	Identified and gathered witness contact information prior to IB's arrival as appropriate.
<input type="checkbox"/>	Ensured all officers on scene remain on scene until released by IB.
<input type="checkbox"/>	Ensured all officers on scene refrain from making evaluative or judgmental comments about the principal officers' actions.
<input type="checkbox"/>	Released command of scene to include principal officers weapon(s) to Investigations Bureau Supervisor/Agent: _____



DEPARTMENT OF PUBLIC SAFETY
INVESTIGATIONS BUREAU
SUPERVISOR / CASE AGENT CHECKLIST



Investigation of Use of Force Incidents
Resulting in Death or Great Bodily Harm

PRINCIPAL OFFICER:		
Name:	Case #:	Date:
Officer Injured: Yes <input type="checkbox"/> No <input type="checkbox"/>		Civilian Injured: Yes <input type="checkbox"/> No <input type="checkbox"/>

INVESTIGATION BUREAU SUPERVISOR/AGENT RESPONSIBILITIES (CHECK WHEN ACCOMPLISHED)	
<input type="checkbox"/>	Briefed by on scene uniform supervisor; _____.
<input type="checkbox"/>	Took control of the scene and assumed control of all the weapons used by the principal officer during the incident.
<input type="checkbox"/>	Ensured that a Crime Scene Log was started and controlled access of persons permitted within the crime scene inner and outer perimeter.
<input type="checkbox"/>	Confirmed identification, location and separation of all witnesses to include principal officer, involved officers, and witness officers.
<input type="checkbox"/>	Ensured that a companion officer or P.O.S.T. member is assigned to the principal officer.
<input type="checkbox"/>	Ensured that all officers involved are afforded an early opportunity to communicate with family members and/or any person that the officer wishes to speak with for counsel, advice or support. The P.O.S.T. member or companion officer may be utilized to assist in this.
<input type="checkbox"/>	Ensured that the principal, witness, and involved officers remain in the same attire and do not dispose of any items until allowed otherwise.
<input type="checkbox"/>	Explained to the principal officer that the IB is conducting a criminal investigation of the incident and that his/her cooperation and statements are voluntary, are not compelled and are not required by DPS policy, procedure or law.
<input type="checkbox"/>	Initiated and directed an area canvass to locate additional potential witnesses.